

Message Text

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ACTION SR-02

INFO OCT-01 IO-10 ISO-00 ORM-01 AF-06 ARA-10 EA-10 EUR-12

NEA-09 OIC-02 L-02 VOE-00 SCA-01 INSE-00 SS-15 SP-02

NSC-05 CIAE-00 DODE-00 INR-07 NSAE-00 PA-02 USIA-15

PRS-01 /113 W

----- 108866

R 301415Z APR 75

FM USMISSION GENEVA

TO SECSTATE WASHDC 2487

UNCLAS GENEVA 3049

FOR KELLOGG AND SCHWEBEL

E.O. 11652: NA

TAGS: SREF

SUBJ: TERRITORIAL ASYLUM-APRIL 29

1. AT THIRD MEETING FAIRLY SHORT GENERAL STATEMENTS BY UK, UKRANIAN SSR, ITALY AND BELGIUM. UK NOT CONVINCED DRAFT CONVENTION NECESSARY OR DESIRABLE BECAUSE OF OTHER INSTRUMENTS ON SUBJECT. UKRANIAN SSR MADE SAME POINT LESS ADROITLY. ITALY SAID THIS NOT A CONVENTION BUT A DECLARATION OF INTENT SINCE "BEST ENDEAVORS" PROVISION REMOVES LEGAL OBLIGATION. BELGIUM SAID THAT SINCE DRAFT CONVENTION ONLY RECOGNIZES RIGHT OF STATES TO GRANT ASYLUM AND DOES NOT GIVE REFUGEES THE RIGHT TO RECEIVE ASYLUM IT DOES NOT GO BEYOND EXISTING LAW AND IS OF LITTLE VALUE.

2. SUBSTANTIVE COMMENTS WERE MANY. NOTABLE WAS THE CONCERN OF SEVERAL PARTICIPANTS ABOUT THE IMPRECISION OF THE "SERIOUS COMMON CRIMES" EXCEPTION IN ARTICLE 1.2 (I) (B), HOWEVER, FAIRLY WIDE SUPPORT EXISTS FOR QUALIFYING THIS PHRASE WITH WORDS "AS DETERMINED BY DOMESTIC LAW OF STATE GRANTING ASYLUM". WHICH WE UNCLASSIFIED

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FAVOR. FRENCH SUGGESTED PROVIDING FOR A

COMMON OBLIGATION OF CONTRACTING STATES TO GRANT ASYLUM IN ONE OF THEIR TERRITORIES. HOW THIS WOULD BE IMPLEMENTED IN PRACTICE WAS NOT EXPLAINED.

3. US INTRODUCED ITS PROPOSAL FOR ARTICLE 2 (NON-REFOULEMENT), PROVIDING AMENDMENT FOR USING "BEST ENDEAVORS" TO ADMIT AT FRONTIER. GENERAL REACTION GOOD. UK AND MEXICO URGED THAT ADMISSION AT FRONTIER IS PURELY TEMPORARY PENDING DETERMINATION OF REFUGEE STATUS ENVISAGED IN ARTICLE 4. SEVERAL PARTICIPANTS, INCLUDING US, COMMENTED BRIEFLY ON USSR SUGGESTION THAT REFUGEES FLEEING TO OTHER COUNTRIES MUST HAVE ACQUIRED ENTRANCE VISAS.

4. AT FOURTH MEETING, US INDICATED ITS WILLINGNESS TO REPLACE IN ITS PROPOSED AMENDMENT OF ARTICLE 1 AND ELSEWHERE IN THE CONVENTION, THE WORDS, "ENTITLED TO THE BENEFITS OF THIS CONVENTION" WITH THE WORDS "ELIGIBLE FOR THE BENEFITS OF THIS CONVENTION" SINCE "ENTITLED TO" HAD CONCERNED SOME PARTICIPANTS AS SUGGESTING THAT STATES HAVE THE DUTY TO GRANT ASYLUM. THIS IS TECHNICALLY NOT A CORRECT ANALYSIS OF THE PROPOSAL, AND WE REGARD THE CHANGE AS PRIMARILY COSMETIC.

5. DISCUSSION OF US PROPOSAL FOR AMENDMENT OF ARTICLE 1 WAS BEGUN ON BASIS OF WRITTEN TEXT FURNISHED BY US. DISCUSSION MARKED BY STRONG PROCEDURAL DEBATE BETWEEN US AND USSR. LATTER CLAIMED THAT COMMITTEE WAS ONLY AUTHORIZED BY GENERAL ASSEMBLY RESOLUTION 3272 (XXIX) TO DISCUSS RPT DISCUSS EXISTING DRAFT RESOLUTION, AND WAS NOT AUTHORIZED TO REDRAFT IT. USSR URGED THAT FUNCTION OF COMMITTEE WAS MERELY TO EXPOSE EXISTING DIFFERENCES OF OPINION BACK TO THE GENERAL ASSEMBLY. US CONSISTENTLY PRESSED FOR PREPARATION OF REVISED DRAFT OF CONVENTION FOR CONSIDERATION BY GENERAL ASSEMBLY. AFTER PROTRACTED DISCUSSION CHAIRMAN INDICATED HE PREPARED TO GO THROUGH

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"FIRST READING" OF DRAFT CONVENTION, WITH RAPPORTEUR'S RECORD OF ALL VIEWS EXPRESSED ON PROVISIONS THEREOF AND AMENDMENTS PROPOSED THERETO. AT "SECOND READING" COMMITTEE WOULD SEEK, BY CONSENSUS OR VOTE, TO ESTABLISH ITS PREFERENCE AMONG POSSIBLE PROVISIONS. HOW THIS SECOND STAGE WILL WORK IS NOT CLEAR AT THIS POINT, BUT IT IS UNLIKELY COMMITTEE WORK WILL RESULT IN PROPOSAL OF

TEXT OF A REVISED CONVENTION. RAPPOREUR'S REPORT
TO GENERAL ASSEMBLY ON CONFLICTING OPINIONS IS
LIKELY.

6. WE WILL CONTINUE TO PRESS FOR AS MEANINGFUL AN
END PRODUCT AS IS POSSIBLE. WE WILL ALSO ENSURE
THAT US PROPOSALS ARE RECORDED IN REPORT.

7. WE ARE DISAPPOINTED IN CHAIRMAN'S HANDLING
OF THIS PROBLEM, BUT HIS LACK OF ENTHUSIASM FOR
PRESSING FOR A REDRAFTED CONVENTION WAS PREVIOUSLY
REPORTED. DALE

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Message Attributes

Automatic Decaptioning: X
Capture Date: 01 JAN 1994
Channel Indicators: n/a
Current Classification: UNCLASSIFIED
Concepts: HUMAN RIGHTS, POLITICAL ASYLUM, REFUGEES
Control Number: n/a
Copy: SINGLE
Draft Date: 30 APR 1975
Decaption Date: 01 JAN 1960
Decaption Note:
Disposition Action: n/a
Disposition Approved on Date:
Disposition Authority: n/a
Disposition Case Number: n/a
Disposition Comment:
Disposition Date: 01 JAN 1960
Disposition Event:
Disposition History: n/a
Disposition Reason:
Disposition Remarks:
Document Number: 1975GENEVA03049
Document Source: CORE
Document Unique ID: 00
Drafter: n/a
Enclosure: n/a
Executive Order: N/A
Errors: N/A
Film Number: D750152-0042
From: GENEVA
Handling Restrictions: n/a
Image Path:
ISecure: 1
Legacy Key: link1975/newtext/t1975044/aaaaadov.tel
Line Count: 127
Locator: TEXT ON-LINE, ON MICROFILM
Office: ACTION SR
Original Classification: UNCLASSIFIED
Original Handling Restrictions: n/a
Original Previous Classification: n/a
Original Previous Handling Restrictions: n/a
Page Count: 3
Previous Channel Indicators: n/a
Previous Classification: n/a
Previous Handling Restrictions: n/a
Reference: n/a
Review Action: RELEASED, APPROVED
Review Authority: ShawDG
Review Comment: n/a
Review Content Flags:
Review Date: 05 DEC 2003
Review Event:
Review Exemptions: n/a
Review History: RELEASED <05 DEC 2003 by MaustMC>; APPROVED <30 DEC 2003 by ShawDG>
Review Markings:

Margaret P. Grafeld
Declassified/Released
US Department of State
EO Systematic Review
05 JUL 2006

Review Media Identifier:
Review Referrals: n/a
Review Release Date: n/a
Review Release Event: n/a
Review Transfer Date:
Review Withdrawn Fields: n/a
Secure: OPEN
Status: NATIVE
Subject: TERRITORIAL ASYLUM-APRIL 29
TAGS: SREF, SHUM
To: STATE
Type: TE
Markings: Margaret P. Grafeld Declassified/Released US Department of State EO Systematic Review 05 JUL 2006